



September 10, 2008

Gina Spade, Esq,  
Assistant Division Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Division  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Ex Parte Filing in:

Comprehensive Review of Universal Service Fund Management, Administration and Oversight, WC Docket No. 05-195;

Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6

Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Changes to the Board of Directors for the National Exchange Carrier Association, Inc.,  
CC Docket No. 97-21

Dear Ms. Spade:

The State E-Rate Coordinators Alliance (“SECA”) is submitting this ex parte filing to highlight several recommended improvements to the manner in which the Schools and Libraries Universal Service Support Mechanism (“E-rate”) is administered. This filing builds on and supplements the extensive Comments and Reply Comments that our group filed in the above-captioned proceedings on October 18, 2005 and December 20, 2005.

Our group membership includes state E-rate coordinators who work in 40 states and/or United States territories. We work together and support each other to help applicants in our states succeed in the program and to suggest ways to help the E-rate program better achieve its goals. Representatives of SECA typically have daily interactions with E-rate applicants to provide assistance concerning all aspects of the program. SECA provides face-to face E-Rate training for applicants and service providers and serves as intermediaries between the applicant and service provider communities, the Administrator, and the Federal Communications Commission (FCC or Commission). In addition to the formal training hours, SECA members spend

thousands of hours offering daily E-rate assistance to individual applicants through calls and e-mails.

Further, several members of SECA work for and apply for E-rate on behalf of large, statewide networks and consortia that further Congress' and the FCC's goals of providing universal access to modern telecommunications services to schools and libraries across the nation.

In addition to their roles as State E-rate trainers and coordinators, most SECA members also provide the following services to the program: technology plan approval; applicant verification assistance to the Administrator's Program Integrity Assurance (PIA) Division; verification to the Administrator of applicable state laws confirming eligibility of certain applicant groups; contact of last resort to applicants by the Administrator; and verification point for free/reduced lunch numbers for applicants.

SECA members are thoroughly familiar with E-Rate regulations, policies, outreach and the operation of the program at virtually all levels of the program.

The recommendations presented in this ex parte filing arose from comprehensive SECA discussions and deliberations. Last April, many SECA members traveled to Atlanta, Georgia, for three days to discuss the opportunities for program improvements: (1) that would have the greatest impact on successful participation by schools and libraries in the program; and (2) that we believe may be subject to the greatest amount of consensus among various representatives of E-rate stakeholders.

Using techniques designed to involve all those present in the decision-making, we discussed and debated numerous issues that were identified as challenges facing E-rate applicants' success, and using a democratic process, we identified five subject areas that fit our two criteria enumerated above. Our recommendations were developed after providing all SECA members (not just those in attendance at our Atlanta meeting) with the opportunity to provide input.

Our recommendations address the following five areas:

- Form 470 Improvements,
- Online System Improvements,
- Priority Two Discount Cap,
- Invoice Improvements, and
- Comprehensive Requirements Manual.

These papers are Attachments 1 through 5 to this letter.

SECA asks that the Bureau carefully consider these suggestions for program improvements. As very involved professionals working with E-rate applicants across the country, we think these suggestions provide the greatest opportunity for program change that will increase program participation and the success of applicants in successfully applying for and receiving E-rate funds in a manner that is respectful of and in furtherance of protection of program resources against waste, fraud, and abuse. For example, by improving the invoice process, applicants will

be more successful in not only obtaining E-rate funding approval through the Form 471 process, but too will be able to successful receive the benefits of E-rate discounts through the invoice process, which will reduce the amount of funds committed that are not spent. Similarly, by making a modest adjustment to the Priority Two discount cap, we believe that more applicants will have access to internal connections funding which will require all applicants to plan these procurements more carefully and deliberately, which will improve the efficiency in the way program resources are utilized.

We would be happy to discuss these recommendations with the Commission and/or address any questions you may have. The Commission's Orders addressing the E-rate program over the last several years make it clear that the agency has been trying to identify ways to improve the administration of the E-rate program. We believe that these recommendations, when implemented, will allow the Commission to make more progress in positive reform of the program.

Sincerely,

/s/ Gary Rawson

Gary Rawson, Chair  
State E-rate Coordinators' Alliance

Mississippi Department for Information Technology Services  
301 North Lamar Street, Suite 508  
Jackson, Mississippi 39201  
601-359-2613  
[rawson@its.state.ms.us](mailto:rawson@its.state.ms.us)

**Problem Statement**

The current format and purpose of the FCC Form 470 has outlasted its original intent. Many sections of the form have become meaningless and only create areas for confusion, denials and Commitment Adjustments (COMADs). In the rural areas of America, there are few competitive choices for E-rate services in response to Form 470 posting. The current version of the form collects unnecessary information (not related to guarding against waste, fraud and abuse) and inadvertent errors that applicants sometime make in completing the form have the dire effect of denying funding to applicants.

In our NPRM comments filed November of 2005, SECA recommended eliminating the Form 470 for Priority 1 services because we felt that the Form 470 did not stimulate competitive bidding and caused numerous denials for reasons not related to waste, fraud and abuse.<sup>1</sup> We continue to advocate this position as the most progressive way to reform this component of the E-rate program. We offer the following suggestions should the FCC decide to adopt a more incremental approach to solving some of the concerns over unfair denials of funding. These interim suggestions will improve the clarity of the information collected on this Form and eliminate several of the barriers to receiving successful funding.

**Recommended Changes**

The following recommended revisions to Form 470 are intended to remove some of the obstacles to funding that applicants experience when they unknowingly complete the form incorrectly. None of the recommended revisions will dilute the FCC's and USAC's vigilant efforts to guard against waste, fraud or abuse. The revisions focus on those areas of the form where the information is either unnecessary or is collected in a manner that is confusing to applicants.

***Eliminate Item 7:*** The original intent of this section was to provide the prospective bidder with an indication of the length of time the applicant was interested in receiving service. It should not matter if the service arrangement that the applicant may wish to consider is tariff, month-to-month, single or multiyear contract with or without voluntary extensions. In all circumstances, the applicant is bound by E-rate rules to accept the most cost effective proposal. For contract service, the contract document must state whether there are options to voluntarily extend the contract after the initial contract term expires. A check in a box on a form or lack thereof should not preclude an applicant from choosing the most cost effective service. In other words, if an applicant forgets to check the contract service box on Item 7, the applicant should still be able to enter into a contract for service. If an applicant forgets to check the box that states the applicant is interested in entering into a multi-year contract with voluntary extensions, the applicant should not be precluded from entering into a contract with voluntary extensions. In many instances the

---

<sup>1</sup> SECA Comments filed October 10, 2005 in WC Docket No. 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60 and WC Docket No. 03-109 in response to the Notice of Proposed Rulemaking (hereinafter referred to as "SECA Comprehensive Reform Comments") at 18-20.

applicant checks all boxes in this section just to ensure they have all the bases covered. In summary, the prospective bidder has a responsibility in the procurement process to reach out to the applicant to determine the applicants' needs and to submit a responsive proposal.

***Posting of Services in Telecommunications and/or Internet Access Service:*** With the changes in technology, and blurring of the legal distinction between telecommunications and Internet access service, posting requests in incorrect service categories is a major concern of applicants. Telecommunications and Internet access can be provided using many varieties of technology. The Form 470 categories have not kept up with this concept with respect to Priority One services. This is most evident when requesting portable wireless data services. Current advice to E-rate applicants is to post this service in both the Telecommunications and Internet Access Service categories.

If an applicant posts an item in the wrong Priority 1 category, the applicant should not be penalized as long as the specific services were requested as part of a Priority 1 service category. For example, if an applicant posts for cellular service combined with wireless portable Internet access service only in the telecommunications category, and did not also post a service request in the Internet access service category, the applicant should not be penalized with a funding denial.

***Eliminate Item 14 "Basic Telephone Service Only":*** The original intent of this section was to ensure the applicant thought about the technology plan requirements. The basic phone service box is there to excuse the technology plan requirement and to excuse the applicant from having to show the necessary resources to make effective use of the discounts. The Form 470 already contains this certification in item 20:

- I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):
  - a individual technology plans for using the services requested in the application; and/or
  - b higher-level technology plans for using the services requested in the application; or
  - c no technology plan needed; application requests basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

SECA also recommends that the pre-existing approved technology plan serve as a written plan under this certification.<sup>2</sup>

***Eliminate Item 15 "Service or Equipment Being Sought":*** The original intent of this section was to provide prospective bidders with additional information on the scope of the applicant's project. Eleven years of experience in the E-rate program show this section of the Form 470 only invites unwelcome and unwanted solicitation of non-E-rate eligible services. As mentioned

---

<sup>2</sup> SECA's comments concerning Technology Plan recommendations were filed on May 10, 2007 at [http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6519410791](http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519410791).

in the discussion of Item 7, the prospective bidder has an obligation to reach out to the applicant to determine the applicant's needs. Item 15 on Form 470 does not serve any useful purpose.

If the intent was also to show the necessary resources have been obtained to make effective use of the discounts, this is an issue at the time the Form 471 and not when the Form 470 is posted. Applicants do not know how much money or resources they will need until they receive proposals for services and can quantify the associated costs. At the time of the Form 470, the applicant is seeking pricing for a project that they may or may not implement.

**Items 16 and 18 “Eligible and Ineligible Entities”:** The area code information required in these sections is not used to evaluate compliance with any E-rate program rule; the information is not useful to service providers and is extremely burdensome for applicants to provide. These items should be omitted from Form 470.

**System Changes:** Along with the form changes highlighted above, there are several data system changes that would help the applicant in the preparation of the form:

- When the applicant begins the process of the on-line filing of the Form 471, the entity number is entered. This brings up a screen where the applicant address and identifications are pre-populated. There is a checkbox where the applicant indicates if there are any changes to the information. This same feature would help in the processing of the Form 470.
- The Form 471 has a feature whereby the applicant can copy information from Block 4 of a previous year's Form 471. It would be extremely useful for an applicant to be able to populate a current year's Form 470 by being able to electronically recall a prior year's form 470.

These simple system changes would help all applicants, and particularly those applicants that must complete a Form 470 each year.

## **Benefit**

These requested changes maintain the competitive bidding processes while eliminating unnecessary confusion. The changes remove “gotcha” items from the form, which will alleviate applicants' stress and anxiety while preserving the essential purpose of this form to provide prospective bidders with adequate information about bidding opportunities.

## **Conclusion**

To recap, SECA continues to advocate for the elimination of the Form 470 for Priority 1 services. We recommend interim steps to the elimination of the Form 470 requirement for Priority 1 services. These steps are: eliminate items 7, 14, 15, 16 and 18; allowing posting of Priority 1 services in both the Telecommunications and Internet categories, and make simple system changes.

**Background and Summary**

The SECA vision of an improved E-rate program includes improved system functionality that provides applicants with the online tools and access to data necessary to participate effectively and efficiently in the program. In our Comprehensive Reform Comments, SECA described the concept of an online portal to implement a more efficient way to administer the program.<sup>3</sup> Applicants need the ability to retrieve and edit previously filed applications and use these forms as the basis to apply for future funding. The suggested changes will make the program more applicant-friendly and, as a result, will improve the efficiency of submitting and processing applications. Further, we encourage the use of User Acceptance Testing when any improvements or changes are made to the Web site tools and functions in order to ensure that the new tools and functions work in the intended manner.

SECA offers the following specific suggestions for a three-phase process in order to assure an orderly transition to implement these recommendations.

**Phase One:**

- Institutionalize the availability of the online Form 471 Application prior to the opening of the filing window to retrieve previously filed forms and allow the editing of Block 4 entity/discount information. This functionality would be the same as the existing Block 4 functionality but instead of requiring applicants to wait until the Form 471 filing window officially opens, applicants could complete their applications through Block 4 well before the official filing window began. This additional time would enable applicants to undertake their substantial data entry efforts more promptly, leading to earlier submission of Form 471 applications once the formal filing window opened. We understand that the online system currently allows an applicant to start a form 471 application for the FY 2008 year (for which the filing window has long since closed). We hope that applicants can then convert the application to FY 2009 and finalize it once the FY 2009 Form 471 application filing window opens later in the fall. We encourage the FCC to direct that this process become part of USAC's standard processes.

**Phase Two:**

- Status of all forms and post-commitment requests should be available online, including but not limited to Form 486, Form 500, SPIN Change Requests, Invoice Deadline Extension Requests and Service Substitutions.
- The Form 471 should be revised to include a Form 486 check-box in each Block 5 for applicants that have approved technology plans, whose services will begin before July 31,

---

<sup>3</sup> SECA Comprehensive Reform Comments at pp. 41-46. Very detailed recommendations for a comprehensive overhaul of the online applications processing are set forth therein. We continue to urge the FCC to consider implementing those recommendations but in the interim, we believe that the recommendations contained in this paper are easier to implement and reflect a more incremental approach toward systems improvements.

and who are CIPA-compliant. If the applicant checks the box for a particular FRN, no additional Form 486 would be submitted. For applicants that are not able to certify to these items when the 471 is filed, the traditional Form 486 would be used at the appropriate time.

- Applicants should be able to retrieve previous years' approved forms, edit and submit without starting anew. This innovation will make it so much easier for all applicants, especially the smaller applicants with static applications from year to year, to apply efficiently.

### **Phase Three:**

- Each year PIA requests the state's NSLP file to verify school data. USAC should ask the states for that data before or as the filing window opens. After USAC obtains the file, it should load the file into a database that could be accessed by applicants to allow for population of Block 4 of Form 471 using the state NSLP file. This would simplify PIA review of entity discount validations. Entities that want to use different data may choose to do so and would be subject to PIA entity discount validation.
- Create the functionality for applicants to upload all supporting documentation. The current Online Item 21 attachment only permits the applicant to list the number of telecom lines and general description of service, but all other information routinely requested by PIA must be submitted to the PIA reviewer via e-mail or fax at a later time. By enhancing the Online Item 21 Attachment tool, applicants could submit LOAs, network diagrams, copies of bills, TN Test certifications, etc., which would greatly benefit PIA reviewers and at the same time provide an online "briefcase" or "locker" where applicants can save and access all of the paperwork related to their application.

### **Reasons for Online 471 Improvements:**

#### **Phase One**

- At a minimum the 471 application should be available for Consortia and other large applicant members (not to submit but to initiate the process)
- Reduce complication of Consortium Review (move consortium review and large complex application review to prior to window opening, with specifically selected PIA reviewers trained for this purpose)
- Expedite PIA process for large applications
- Will free up resources during normal PIA review period that complex consortium applications consume

#### **Phase Two**

- Create a mechanism, similar to the DRT that provides applicants access to all of their data and their forms.
- Simplify the overall process by providing an opportunity for those applicants who are able to certify to the Form 486 certifications at the Form 471 application stage by providing a Block 486 check-box in the Block 5.



- Online forms should be viewable, editable, and re-creatable based on previous year forms, i.e., there should be a “create new form” function using an existing form.

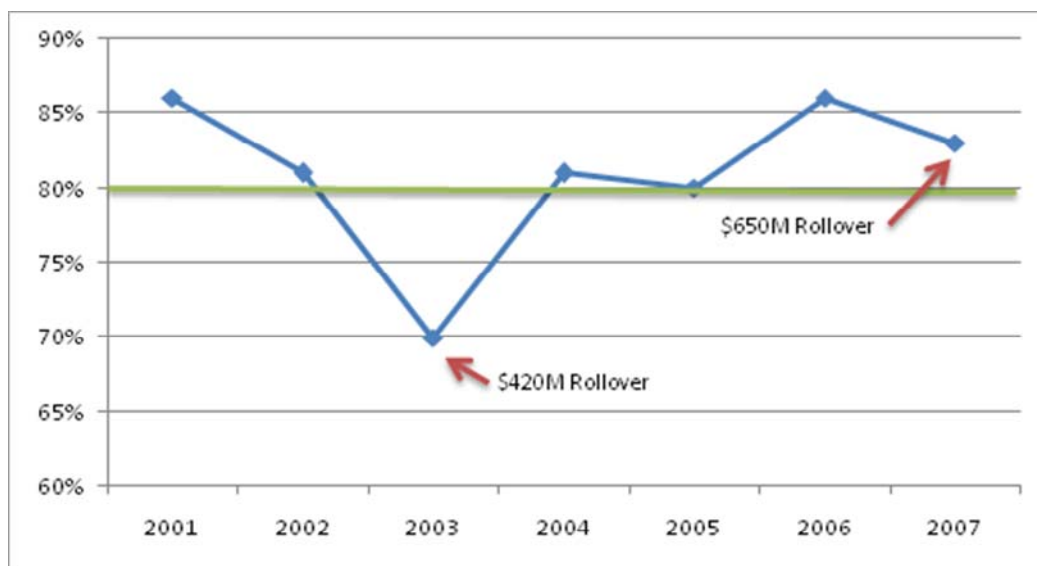
### **Phase Three**

- Remove the collection of and data entry of Block 4 data from the normal application process.
- Remove the often-duplicative efforts of the state’s data entry of Block 4 data and every other applicant in the state (for which the state is responsible).
- Reduce chances of data entry errors.
- Allow applicants to concentrate on what they are applying for (Block 5) and not Block 4.

**PRIORITY TWO DISCOUNT CAP****Problem Statement**

The E-rate program was designed to provide the highest discounts to the neediest participants. In FY 1999 there was adequate funding for Priority 2 (P2) services at all discount levels for schools and libraries. In FY 2003, P2 funding was available down to 70% due to a \$420 million roll-over. In recent years, however, P2 funding has been available only at 80% and above. The result of this distribution scheme is that Internal Connections and Basic Maintenance have been available to applicants in the 80% - 90% band year after year while applicants in the 70% band and below do not get funded at all, even though many are also financially challenged like those applicants in the higher discount bands. The P2 threshold has only reached 80% in two years since FY 2000. In FY 2007, even with the largest roll-over in the program's history (\$650 million), P2 funding did not reach the 80% level. Only libraries at a 90% discount are currently able to avail themselves of P2 funding, thereby eliminating P2 funding for all but a few of the libraries in the program.

Figure 1  
Priority 2 Funding Threshold Percentage



Although the nominal cap on E-rate funding is \$2.25 billion per year, FCC rules provide that funds available in earlier years that are not disbursed may be “rolled over” into future years. This has not an automatic process, but one that the FCC approved from time to time. As seen in Figure 1, there had been two such roll-overs through FY 2007. Significantly, the two situations are quite different. In FY 2003, the additional \$420 million in funding allowed Internal Connections to be funded down to 70%, the lowest level since FY 1999. Last year, by way of contrast, even with an additional \$650 million, the P2 threshold reached only 81%.

A third roll-over of \$600 million for FY 2008 was approved this year. Although a final P2 threshold for FY 2008 has not yet been determined, initial indications are that it will be well above 80%.

In 2005, the FCC approved the 2-in-5 year rule, which limits applicants' ability to take advantage of internal connections funding by only allowing funding of an entity twice in every five years. The 2-in-5 Rule has motivated some applicants to be "creative" with their funding applications in a way that is designed to minimize the effect of the 2-in-5 year rule. In the past, some applicants would minimize their workload by listing entities all on one application. Some applicants are splitting up entities to take advantage of the internal connections funding opportunity before they are required to reduce their requests.

Although the rule was designed to make applicants tighten their planning so that the P2 funding could be spread to others, the rule has not been successful as the threshold has continued to hover above 80%. The result is that high-poverty areas, some with more than 50% of their population within the poverty designation, are currently denied adequate access to P2 E-rate funds. Clearly, applicants with 70% and 80% E-rate discounts have serious financial challenges and are deserving of E-rate funding for Internal Connections and Basic Maintenance.

When the 2-in-5 Rule was initiated, the assumption was that it would help reduce the demand for funding, particularly by the high-discount applicants who had been qualifying for Internal Connections funding year after year. As shown in Figure 2, P2 demand (defined as initial Form 471 requests) from the 90% applicants did decline steeply approaching FY 2005, which was the first year that counted for 2-in-5 purposes. But the demand was still substantial, and has not dropped further. Indeed, for FY 2008, the initial Priority 2 demand by 90% applicants has again started to rise. The same trend is evident in demand in the 80–89% discount band.

Figure 2  
Priority 2 Demand vs. Commitments for 90% Applicants

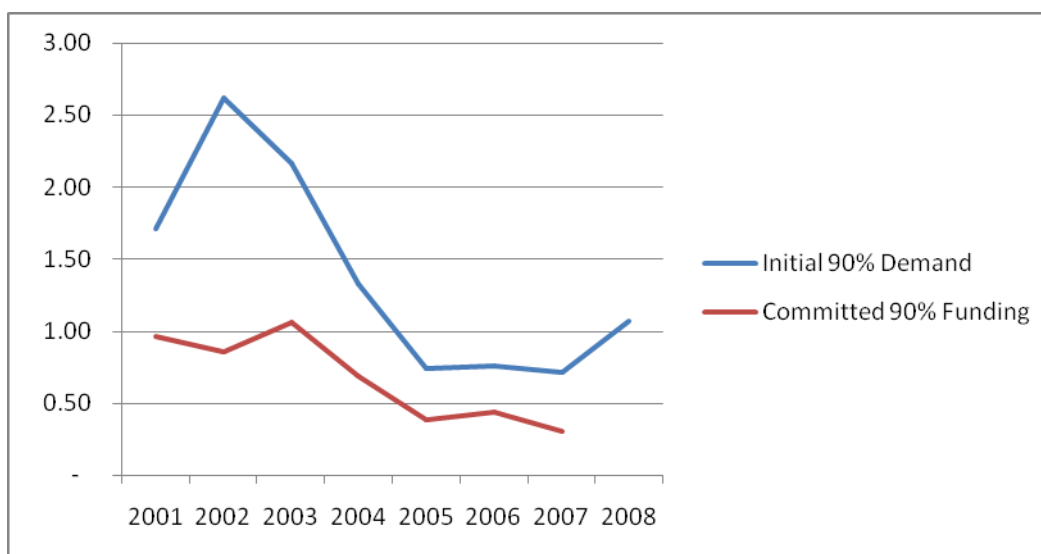
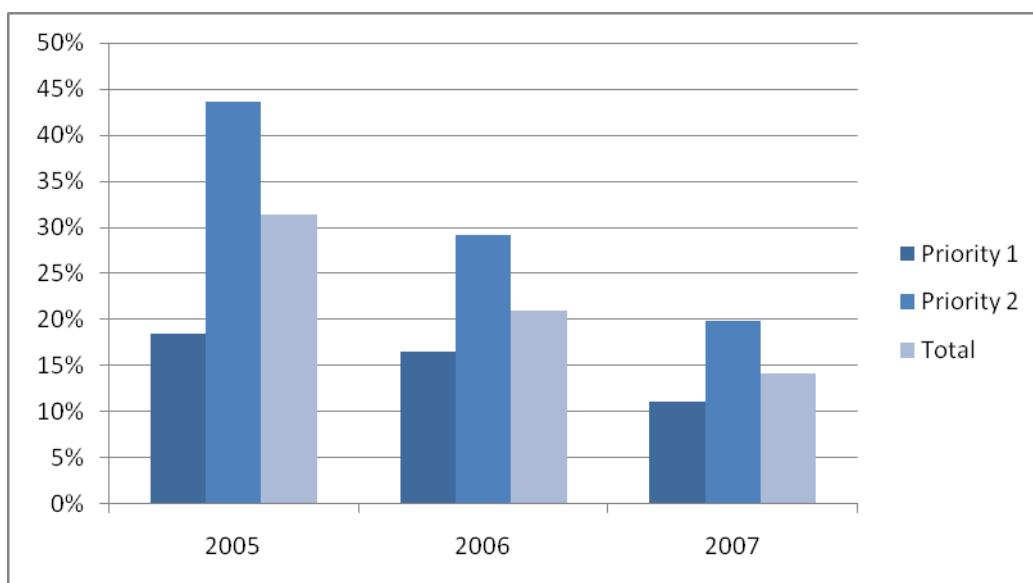


Figure 2 illustrates another important factor in E-rate funding analysis. Not every dollar of initial funding demand is ultimately awarded, even for 90% applicants who have always been above the Internal Connections funding threshold. Initial demand includes a number of applications or individual funding requests that are subsequently canceled, denied, or reduced.

Beginning in 2006, the FCC issued a series of appeal decisions known as Global Resolution Orders. Each of these orders dealt with a number of applicant appeals of funding denials by the SLD as a result of largely procedural rule errors made by the applicants. In all but a few cases, the FCC decided that funding denials were too strong a penalty for these mistakes, and waived the rules for these applicants. More importantly, the FCC instructed the SLD to change its application review procedures so that, when mistakes were identified, applicants usually would be given at least 15 days to correct them. To be absolutely clear, SECA applauds these orders. But we also recognize these orders definitely have an effect on P2 available funds. Beginning later in 2006, largely as a result of these more applicant-friendly procedures, funding denial rates have dropped sharply.

This drop is shown clearly in Figure 3 which measures the percentage difference between initial funding demand (excluding Priority 2 requests at sub-threshold discount rates and still pending FY 2007 requests) and final commitments.

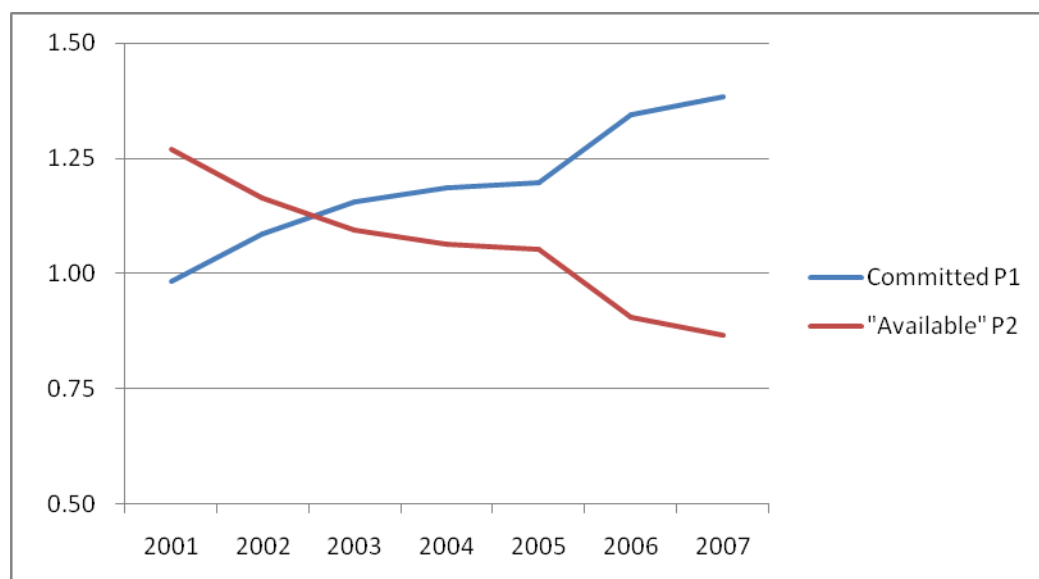
Figure 3  
Funding Reduction Percentages: FY 2005 – FY 2007



Experience over the past years of the E-rate program indicates that the demand for P1 funding expands each year. This factor also affects the level of P2 funds available; every additional dollar committed to P1 means one less dollar for P2.

The new SLD application review procedures, implemented in the aftermath of the FCC's *Bishop Perry* decision in early 2006, have reduced the denial rate on funding requests for both P1 and P2 requests. This modification to the review process is to be applauded, because it increases applicants' success in receiving funding approval. The effect of reduced denial rates consequently has a greater impact on P2 funding available since all P1 requests are funded first. Figure 4 illustrates the increases in FYs 2006 and 2007 in funding committed for P1 services and the resulting reduction in funds available for P2 requests.

Figure 4  
Committed Priority 1 Funding vs. "Available" Priority 2 Funding (in Billions)



In addition to the desire to reach a greater number of applicants, SECA is concerned about waste and abuse of the program. Internal Connections and Basic Maintenance of Internal Connections arguably offer the greatest opportunity for misspending of funding. By suggesting an increase in the amount of financial participation on the part of the applicant, as discussed below, we are encouraging more purposeful planning and a reduction in funding requests that go beyond the actual needs of the school or library.

### Recommended Changes

SECA recommends a change in the distribution of Priority 2 funding that would allow more applicants to benefit from an opportunity currently afforded to a small group. SECA proposes to lower the maximum discount from 90% to 75% for Priority 2 funding requests. The discounts would follow the same methodology as the current matrix: declining for each discount band with the lowest discount remaining at 20%. All applicants under this suggested schedule would have to supply a greater percentage of funding in order to utilize Priority 2 funding. SECA believes that greater ownership, along with greater access, creates an overall gain to most applicants. We believe that increased commitment on the part of the applicant would help to reduce the

incentive to abuse the program through premium ordering and transferring of equipment to non-eligible locations beyond the 3-year requirement.

Data suggests that districts with only pockets of 90% schools will have an overall increase in their funding availability. The proposed changes will more evenly distribute funds to a greater number of deprived entities, while at the same time encouraging thoughtful, meaningful and purposeful purchases. Applicants would need to make a greater financial investment, which would translate, we believe, to a greater incentive to properly manage and maximize applicant investment, thus reducing abuse of the program.

We suggest the following:

- Continue with the 2-in-5 Rule because the rule has positive benefits of planning of internal connections procurements.
- Limit the discounts for Priority Two Internal Connections and Basic Maintenance of Internal Connections as shown below<sup>4</sup>:

<b>INCOME</b>  <b>Measured by % of students eligible for the National School Lunch Program</b>	<b>URBAN LOCATION</b>  <b>P1 Discount</b>	<b>RURAL LOCATION</b>  <b>P1 Discount</b>	<b>P2 Discount</b>	
If the % of students in your school that qualifies for the National School Lunch Program is...	...and you are in an URBAN area applying for Priority 1 services, your discount is	...and you are in a RURAL area applying for Priority 1 services, your discount is	If your P1 Discount Is.....	Your P2 Discount will be....
Less than 1%	20%	25%	20-29%	20%
1% to 19%	40%	50%	30-39%	30%
20% to 34%	50%	60%	40-49%	40%
35% to 49%	60%	70%	50-59%	50%
50% to 74%	80%	80%	60-69%	60%
75% to 100%	90%	90%	70-79%	65%
			80-89%	70%
			90%	75%

<sup>4</sup> This recommendation reflects an evolution and revision of SECA's position regarding the specific changes to the P2 discount matrix that we have previously recommended. See, e.g., Comments filed on April 5, 2002 in CC Docket No. 02-6 (on behalf of the Council of Chief State School Officers); CCSSO Reply Comments in CC Docket No. 02-6 (May 6, 2002); SECA Ex Parte filed April 30, 2003; SECA Initial Comments in CC Docket No. 02-6 (July 18, 2003); SECA Reply Comments in CC Docket No.02-6 (August 19, 2003); SECA Initial Comments in CC Docket No. 02-6 (March 11, 2004) and Reply Comments (April 12, 2004) and SECA Comprehensive Reform Comment at pp. 52-54. There we recommended that the maximum discount for P2 should be 70% whereas in this paper we recommend the maximum to be 75%. In this paper, we also recommend adjustments to other discount bands on the matrix.

### **Anticipated Benefits:**

In order to understand how a change in the Priority 2 discount matrix might affect applicants, both positively and negatively, SECA examined the Council of Great City Schools (CGCS) Priority 2 FY 2008 applications. Because CGCS represents approximately seven million students in just under ten thousand (10,000) schools, we felt that this was a large representative grouping that includes some of the most economically disadvantaged applicants participating in the program.

In looking at the 66 CGCS districts, we found the following breakdown to be illustrative of the benefits associated with Priority 2 reform. By examining districts as a whole, and by using the weighted average of the entire district, the following picture emerges:

Currently 30 of the 66 CGCS districts (45%) qualify for P2 funding at the FY 2007 level of 81%.

If the Priority 2 funding scale were modified as outlined, the program would reach the CGCS districts as follows:

If P2 was funded down to:	75%	then 45/66 CGCS districts (68%) would qualify
If P2 reached:	70%	then 52/66 CGCS districts (79%) would qualify
If P2 reached:	65%	then 60/66 CGCS districts (91%) would qualify
If P2 reached:	60%	then 65/66 CGCS districts (98%) would qualify

We anticipate that, based upon the currently available P2 funding, with the suggestions made, we would see applicants funded down to the 70% discount level. If P2 funding were to go down to the 70% level it would mean that 79% of the CGCS districts would have the opportunity to access this funding using their weighted average. Even a drop to 75% P2 funding under this new scheme would allow 68% of the CGCS's to participate, using their weighted average.

And if a 70% threshold is assumed, then we can make the following assertions regarding the 66 large CGCS districts:

- 52 of the 66 districts have aggregate FY 2008 discount rates of at least 70%. This would make all their IC maintenance eligible.
- Currently the CGCS districts have over 2,500 schools at the 80% funding level. Reducing the P2 percentage awarded would provide these districts with the confidence of getting their 80% schools funded for IC each year (and would avoid having them create 81-89% aggregate Block 4 lists — a practice that may be leading to abuses). As a group, the CGCS districts would benefit by getting a 75% discount for their 90% schools and a 70% discount for their 80% schools, rather than getting a 90% discount on only their 90% schools.

- Assuming equal pre-discount requirements of \$10,000 per school, the analysis looks like this:

Current discount on all CGCS 90% schools:

$$4,690 \times \$10,000 \times 90\% = \$42,210,000$$

Proposed discount on all CGCS 90% and 80% schools:

$$4,690 \times \$10,000 \times 75\% = \$35,175,000$$

$$2,575 \times \$10,000 \times 70\% = \underline{\$18,025,000}$$

$$\$53,200,000$$

The impact of the suggested changes on libraries is arguably more significant than the impact on schools and districts for the following reason. A library or library system depends upon the percent of students eligible for Free or Reduced Lunch in the school district in which it is located, but a library is limited to a matrix discount. Currently, with no P2 funding at 80% in recent years, only those few libraries with a 90% discount have been eligible for P2 funding. If we are able to broaden the distribution of Priority 2 funding to the districts as suggested above, we would find the increase in eligible libraries would be proportionally even more significant than the increase in school districts. While no one disputes that a library community with a 70% poverty level is in need of assistance in order to maintain network connectivity, under the current system that access is unavailable.

While it is difficult to predict precisely how the proposed change in the IC discount matrix would affect demand and the ultimate IC funding threshold, we would expect that the demand from high-discount applicants would decline because: (a) their net cost would increase; and (b) even at the same level of pre-discount demand, the discount portion would drop. We could also reasonably expect the demand from medium- to low-discount applicants to increase, assuming many more such applicants would bother to apply for IC discounts with the hope of being funded.

The previous SECA analysis (done in 2003 to support our proposal then of a 70% P2 maximum) used a “pivot factor” (lowering high discount demand and raising lower discount demand) to try to estimate real demand across all discount bands. As a base level of demand, the analysis focused on FY 2000. The premise was that since all IC had been funded in FY 1999, it was more likely that applicants at all discount levels might file IC requests the following year.

SECA’s 2003 analysis suggested that the 70% maximum discount proposal might have allowed the FY 2000 IC threshold to drop into the 50-59% band (versus the actual threshold that year of 82%). We revised the 2003 analysis to reflect our new proposed IC matrix with a maximum discount of 75%, and reached almost the equivalent result on the FY 2000 threshold. Please note that while our new proposal uses the higher maximum IC discount of 75% (vs. 70%), it actually reduces other lower discount levels a bit (e.g., by reducing the entire 60-69% band to a 60% discount).

The current distribution scheme has been successful in getting Internal Connections to the applicants with most extreme level of poverty. It has, however, resulted in the same applicants



being funded for P2 year after year without funding applicants that still have significant concentrations of poverty. SECA suggests that with the relatively minor change to the discount matrix suggested above, some of the financially challenged applicants that have not been able to access P2 services would be able to improve their students' and patrons' access to the Internet.

**INVOICE IMPROVEMENTS****Problem Statement**

Each year hundreds of millions of dollars of eligible E-Rate funding never reach applicants because of invoicing issues and applicant confusion. Reforming USAC invoice review procedures and notification process is essential to ensure applicants actually receive E-Rate funds often committed over a year before invoices are generated.<sup>5</sup>

The routine monthly information that SLD shares with stakeholders indicates that USAC denies approximately 20% to 25% of the invoice dollars submitted for processing. These invoices include both service provider invoices known as Service Provider Invoices (SPIs) for service providers who have provided discounted bills to the applicants, and applicant invoices known as Billed Entity Applicant Reimbursement Form (BEAR) for applicants who have paid in full and now seek reimbursement of the discount.

There may be many different reasons why USAC may disapprove an invoice for payment. Standard reasons for denials of service provider invoices are published on the SLD web site.

In contrast, standard reasons for denying payment of applicant BEARs are not published on the SLD web site, and applicants must rely on the notification letter that SLD issues when it completes its processing of an invoice to ascertain the reason why the BEAR was denied. Frequently, the notification letters contain little or insufficient information. The letters do not clearly explain why the BEAR was denied or that applicants may correct the mistakes that led to the BEAR denial and refile their corrected BEAR to obtain payment from USAC.

According to the SLD Data Retrieval Tool for FY 2006, downloaded on July 6, 2008, 18 Virginia applicants had zero-funded invoices totaling over \$124,000 and 22 North Carolina applicants totaling over \$355,000. FY 2006 figures are presented here because the deadline for submitting invoices has passed for all but one of the affected Funding Commitments. Claiming these funds will require additional complicated steps such as an Invoice Deadline Extension request to the SLD or Request for Waiver of Rules to the FCC.

The administrator developed an online BEAR form for administrative convenience. Applicants initiate an online invoice using a personal identification number issued by the administrator. The administrator generates an e-mail notification to the service provider requesting that the service provider review and certify the BEAR. Once certified, the online BEAR is reviewed and processed by the administrator as described above. Due to confusing instructions with the online process, service providers inadvertently cancel many online BEARs resulting in non-payment of invoices. In these situations, the administrator issues a BEAR cancellation letter to the service

---

<sup>5</sup> Some of the recommendations contained herein were included in the online portal recommendations set forth in SECA's Comprehensive Reform Comments; but for the most part, these paper delves into a greater level of detail and contains new, more specific recommendations based on experiences and concerns amassed since October of 2005 when we filed our Comprehensive Reform Comments.

provider and a copy to the last known contact at the applicant address. Often the applicant copy never reaches the proper individual and the non-payment is not discovered for months or years.

The administrator reviews invoices submitted by applicants and service providers for correctness and to ensure payments are made in accordance with program rules. Invoices submitted for ineligible services, incorrect amount, improper discount rate, or a number of other issues are rejected. Paper invoices filed with mistakes are rejected.

Rejected invoices are known as “Zero-Passed Invoices” because the notification letters to applicants and service providers indicate an invoice payment of “\$0.00.” The Data Retrieval Tool shows Zero-Passed Invoices as a method of payment (BEAR or SPI) and \$0.00 in the Total Authorized Disbursement column.

In the event the service provider or applicant submits more than one invoice for a funding request and one invoice had been paid, a subsequent Zero-Passed Invoice could not be identified using the Data Retrieval Tool (DRT) because multiple payments are additive in the Total Authorized Disbursement column. A Zero-Passed Invoice, with a payment of \$0.00, would not change the total disbursed amount and therefore could not be identified using the DRT.

### **Recommended Changes**

- The DRT should be modified to identify when an individual invoice has been paid or, in the case of Zero-Passed invoices, not been paid. This information is critical for state coordinators, service providers, and applicants to timely identify invoice errors and correct problems so applicants may receive all eligible E-Rate funding.
- Some invoice issues are as simple as an incorrect date on an invoice or a date put in an incorrect column of the BEAR form. Under current administrator invoice review procedures, invoices with simple and obvious clerical mistakes are subject to the Zero-Pass procedure. The administrator should be required to contact applicants or service providers with the opportunity to correct invoices containing clerical or ministerial errors in the spirit of the Bishop Perry Order.
- As stated earlier, Zero-Passed invoices may not be discovered for months or years. Applicants and service providers often submit final invoices near the last date to file invoices resulting in discovery of non-funded invoices long after the invoice deadline. All Zero-Passed or reduced invoices should be granted an automatic invoice extension by the administrator.
- Form 472 (BEAR) notification letters do not explain the reason for non-payment or reduction of funding. Applicants must contact the administrator’s Client Service Bureau to discover the reason for funding reduction or non-payment. BEAR notification letters should expressly state the reason for funding reduction or non-payment along with clear instructions directing the applicant to correct and re-submit the BEAR when appropriate or to submit an appeal if the decision does not involve a correctable error.
- The BEAR notification letter should be addressed to the individual filing the BEAR rather than the contact listed in the administrator’s database. The BEAR form should collect the address of the contact person for the BEAR form and the notification letter should be addressed to the contact person at the address listed on the BEAR.

- The administrator should be instructed to develop an online tool displaying the status of BEAR forms. Applicants should be able to track the progress of online BEAR submissions and take proactive action in the event BEARs are improperly cancelled.
- Online BEARs should be permitted to be started by an individual who does not have a PIN. A security code should be assigned to incomplete BEARs in order to be able to retrieve an incomplete, saved BEAR. The security code can also be used to access the form in order for the applicant's representative to certify the form.
- Applicants should be contacted soon after the invoice deadline for an FRN has passed to notify them that SLD has not received an invoice for the FRN and they should be provided an opportunity within a prescribed time period to submit an invoice, without penalty.
- Applications for monthly recurring services receive funding commitments for the cumulative total of the recurring service cost times the number of months of service plus any one-time non-recurring costs. Current administrative invoice procedures allow full payment of funding commitments prior to the end of the fund year. For example, an applicant may be funded for 12 months of recurring service of \$1,000 per month (\$12,000 total). An invoice for the entire \$12,000 commitment submitted two months after the service start date (assuming a Form 486 is properly filed), would be fully paid by the administrator. We believe this is a clear violation of program rules and should be immediately stopped.

**Problem Statement**

Program guidance is currently spread all over the SLD website: the reference area, training slides, FAQ's, SLD News Briefs, etc., all providing necessary information for applicant success. Some guidance conflicts with or contradicts other published information. Posting or publishing dates of the various references further complicates applicants' compliance with the rules.

FCC regulations and Reports and Orders relevant to the Program are not available on the USAC website. It is nearly impossible for applicants to definitively know whether they are compliant with program rules without the necessary references being easily available, in one place, and up-to-date. The program increasingly becomes accessible only to the well informed: either to large applicants with staffing sufficient to dedicate some toward their E-Rate operations or to those who hire E-Rate consultants. The neediest applicants are often driven from participation in the program altogether or become vulnerable to predatory business practices.

Throughout the ten-year history of the program there has been very heavy turnover in applicant staff assigned to E-Rate. This is likely to continue if not increase. Given the funding at stake for most applicants, the pressure placed upon those assigned to E-Rate will be increasingly intense. It is important that those newly assigned to E-Rate have an easy-to-use, reliable, and trustworthy guide to all the program requirements.

The absence of a comprehensive manual provided by USAC has compelled a number of state E-Rate coordinators to create and provide their own manuals to guide applicants in their states. The state coordinators cannot be assured, however, that USAC and/or the FCC would stand behind the content of these manuals. State coordinators find it difficult to keep these manuals up-to-date, with program requirements that frequently change due to various factors and that are not centrally documented.

Clarifications (oral or informal) are made to existing written guidance including the Eligible Services List, but that information is not currently reflected in revised formal written guidance available to all applicants.

**Recommended Changes**

We propose that USAC develop one comprehensive manual containing all requirements and references applicable to E-Rate program participants (including the Eligible Services List). This manual should be logically organized, easy to search, contain embedded hyperlinks, and be kept up-to-date. The publishing date of all updates should be easily determined from within the manual. For example, the manual might be similar to military aircraft operating manuals, which briefly describe and document changes when new, vitally important information is promulgated.<sup>6</sup>

---

<sup>6</sup> This paper builds on the recommendation in our Comprehensive Reform comments that the E-rate rules and policies should be centrally located and organized. See SECA Comprehensive Reform Comments at pp. 11-15.

The manual should not contain SLD's internal control and review procedures, merely the requirements those procedures are designed to enforce.

This manual might reflect a fusion of the “Schools and Library Applicants” Steps (the drop-down menu on main USAC/SLD web page) and the Reference Section, so that information would be organized into the flow of the process, span all reference and resource information and be all-inclusive. This could be organized similar to chapters in a book by topic.

Any informal guidance or clarification to any individual or group of program participants should be added to the manual in an appropriate section. The FCC should approve the manual so that program participants, USAC, and auditors can comfortably rely on it. USAC and auditors should reference the manual according to the timeframe of the action being reviewed.

The manual should be prominently displayed on the USAC website.

It should make clear:

- Statutory requirements
- FCC regulatory requirements
- Federal general accounting requirements
- FCC official guidance from orders not incorporated into regulations, and
- USAC administrative procedures

All USAC training and all other outreach efforts provided by USAC (e.g., SLD News Briefs) should be absolutely consistent with (including use of the same wording) and supported by the current version of the manual.

All changes and the change history of the manual should be archived for reference during audits, site visits, review of prior-year appeals remanded to USAC, etc. These changes should be tracked on a daily basis, perhaps accessible by hyperlinking individual words or phrases within the manual back to former guidance, clearly showing the applicable guidance during any given period. Since a comprehensive manual containing historical guidance since 1998 would be a huge undertaking, a manual containing current requirements and hyperlinks with changes going forward is a good suggested starting point.

Regular, timely notification should be provided to all interested program participants of changes to the manual. This might be accomplished through weekly news updates, listserv, RSS feed, or other means.

There should be a quick and powerful search engine available to search the content of the manual.

### **Potential Enhancements**

The program is large and complex. Without some helpful structure, a comprehensive manual for all applicants might be overwhelming to some, especially smaller, applicants. In order to avoid

that effect, we recommend that the manual be structured so that it can be accessed by different program participants in such a way that presents the information they are most likely to need. There might be an entry method like the DRT so that a participant wanting to use the manual might indicate the role they play, e.g., service provider, applicant, consultant, and the level of complexity of their involvement in E-Rate. For example, a service provider might indicate that it just provides telephone service, or that and more complex circuits, adding even internal connections if applicable. An applicant might indicate it is an individual school or library that applies only for Priority 1 services, or a large school district that applies for all types of services, or a consortium, etc. The information they are presented with could be tailored based upon their point of entry information. An individual school or library applying only for Priority 1 services and not a member of a consortium wouldn't see information on Forms 479 or LOAs, or Priority 2 services. A service provider may be presented information at the very beginning explaining and directing them how to obtain a SPIN. Structure the manual so that the first view is a fairly high-level perspective of the program, with the ability to drill down into the contents wherever a participant needs to find more information. Provide hyperlinks to FCC appeals, decisions, and orders that provide the substantive basis for many of the program's requirements.

### **Benefits**

- Program rule compliance will improve because program participants will have easy access to all the requirements with which they are expected to comply.
- Reliance on a comprehensive manual that organizes and centralizes all the correct information (information currently scattered widely across the USAC website) will enable the Client Service Bureau (CSB) to give more reliable and consistent guidance to program participants.
- Reduction of queries to USAC and the FCC about program requirements would be expected. (This has been the experience of several state coordinators who have distributed their own state manuals.)
- There will be a reduction in the burden placed upon program participants to find and understand all requirements applicable to the specific questions they have.
- There should be a reduction in the volume of appeals to USAC and the FCC.
- There will be greater consistency among FCC, USAC, and audit decisions because everyone will be operating from the same manual.
- The manual will offer program continuity and enhance program integrity.
- The manual will mitigate the perceived complexity of the program and reduce participant frustration. This benefit may well result in an increase in program participation.

### **Other Considerations**

As noted above, many state coordinators have taken it upon themselves to develop their own comprehensive manuals, which are updated regularly, similar to what is proposed here. These manuals have proven to be a valuable resource for applicants. USAC may wish to utilize these as a starting point in developing a manual. These coordinator manuals may prove useful to USAC when deciding on format and organization and as a starting point for content since these already contain actual USAC program information culled from a variety of USAC's own resources found in multiple locations on the USAC website.

SECA recognizes that this is a significant additional workload for USAC. SECA as a group and the individual state coordinators are eager to provide any support, suggestions, beta testing, etc. that could help USAC facilitate this process.